

Applicant : Randy G. Cooper et al.
Serial No. : 10/730,637
Filed : December 8, 2003
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Attorney Docket No. P-JK-01470-A

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REMARKS

Claims 1-9, 11, 13-14, 16-34, 68-69, 71, and 75-82 are pending, with claims 1, 19, 81, and 82 being independent.

The Office Action mailed November 28, 2006 requires election among the following species:

Species A: Figs. 1, 2A, and 2B (grasping member extending generally perpendicular to a connecting member).

Species B: Fig. 4 (angled grasping member).

Species C: Figs. 5 and 6 (L-shaped handle formed with dust/debris channel).

Species D: Figs. 7 and 8 (L-shaped handle formed of shell portions).

Species E: Fig. 9 (including a dust housing).

Species F: Figs. 10A and 10B (handle including a dovetail terminal portion).

Applicants provisionally elect Species C (Figs. 5 and 6) with traverse for the reasons set forth below. Claims 1-9, 11, 14, 16-28, 30-34, 68-69, 71, and 75-82 are readable on the elected Species C. Claims 1-9, 11, 14, 16-28, 30-34, 68-69, 71, and 75-82 are generic to all species. Claims 7, 23, and 69 are generic to Species A and C-F. Claims 9 and 25 are generic to Species A-E. Claim 71 is generic to Species B-F. Claims 13 and 29 have been provisionally withdrawn as being directed to non-elected species. Upon allowance of a generic linking claim, consideration and allowance of the non-elected claims is hereby requested.

Applicants traverse the election of species requirement at least because the Office Action fails to demonstrate that a search for the identified species would be burdensome. "[T]he examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required," including separate classification, separate status in the art, or a different field of search. M.P.E.P. § 808.02. The Office Action is deficient because it fails to provide any

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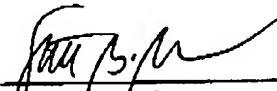
explanation, based on these factors, as to why the search for the identified features would be burdensome.

Moreover, there appears to be no such burden because all relevant searching appears to be complete. The application was filed with all identified species being described in the specification, shown in the drawings, and covered by the claims. To date, at least three prior art searches have been conducted in conjunction with the issuance three substantive office actions. Indeed, the Examiner's search notes from the most recent substantive Office Action mailed June 12, 2006 indicates that the Examiner merely needed to update the previous searches from the first two office actions. Thus, it appears that the Examiner has already searched all of the relevant art for all species disclosed in this application. With the prior art searching complete, there appears to be no additional burden on the Examiner. To allow a species election at this late stage of prosecution, would slow, rather than advance, the prosecution of this application.

For at least the foregoing reasons, Applicants respectfully request withdrawal of the election of species requirement.

No fee is believed to be due. Please apply any other charge or credit to deposit account 02-2548.

Respectfully submitted,

Date: 12/19/2006

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